27th April 1962] [Sri R. Venkataraman]

As far as the International House is concerned, both the publicity and the criticism are premature. Except that the Defence Ministry have leased a certain piece of land even as they have done already a piece of land to the Gymkhana Club, nothing else has been done. The Madras Government themselves have asked for information as regards the purposes and the structure or other buildings which are intended to be put up there. Therefore, the point raised by the esteemed Leader of the Opposition, whose interest in the preservation of open spaces and play-fields is very well known—not only known to us, but has been perpetuated in a legislation which I call the Mudaliar Act (laughter) . . . . (Interruption).

Mr. Chairman, may I now conclude with a fervent appeal to this House to examine the problems of administration with sympathy and understanding and help in building up a resplendent State of harmoney and prosperity? (cheers.)

Mr. Chairman, before I actually conclude, let me say this. It has been the usual practice in this House to request the Opposition to withdraw the amendments to the Motion of Thanks. On this occasion, I find myself in an embarrassment, because there are more than one amendment. I will make a general appeal that it is not usual in this House to press for any amendment but to pass the Motion of Thanks unanimously. I would request hon. Members to respect the convention and thereby enhance our own prestige. Thank you, Mr. Chairman. (Cheers.)

The amendments were, by leave, withdrawn.

MR. CHAIRMAN : The question is :

'That an humble Address be presented to the Governor that the Members of the Madras Legislative Council thank him for the Address delivered to the Members of the Legislature on the 23rd April 1962'.

The motion was put and carried unanimously.

VI.—GOVERNMENT BILL.

THE MADRAS SUGAR FACTORIES CONTROL (AMENDMENT) BILL, 1962 (L.A. BILL No. 1 OF 1962).

THE HON. SRI P. KAKKAN : Sir, I move—

"That the Madras Sugar Factories Control (Amendment) Bill,[a] 1962 (L.A. Bill No. 1 of 1962), as passed by the Assembly, be taken into consideration".

Under section 14 (1) of the Madras Sugar Factories Control Act, 1949, the levy of a cess, not exceeding annas four per standard maund, on sugarcane was authorised. At present a cess of Rs. 2 per ton is levied on sugarcane, brought into any factory in the State. In December 1960, the Supreme Court held that the Uttar

[a] Printed as Appendix on page 207.

[Sri P. Kakkan] [27th April 1962

Pradesh Sugarcane Act, 1956, was invalid, on the ground that the State Government had no jurisdiction for passing such legislation. As the Supreme Court decided that the term 'local area' was to be construed only to mean the jurisdiction of a local authority and, not the premises of a factory, this Government examined the legal position and were advised that section 14 of the State Act should be amended so as to authorise the levy of a cess on sugarcane entering into any local area specified in such notification and not just into any area specified in such notification. As the Legislature was not then in session, and as the matter was urgent, the Madras Sugar Factories Control Ordinance of 1962 was promulgated amending section 14 (1) of the Act. It is now proposed to replace the Ordinance by introducing this Bill. The Bill has to be passed immediately as the Ordinance will cease to operate on the expiration of six weeks from the date of the reassembly of the Legislative Council. I, therefore, request the House, Sir, to accept the motion for taking the Bill into consideration.

MR. CHAIRMAN: Motion moved—

"That the Madras Sugar Factories Control (Amendment) Bill, 1962 (L.A. Bill No. 1 of 1962), as passed by the Assembly, be taken into consideration".

SRI K. BALASUBRAMANYA IYYAR: Mr. Chairman, Sir, I would like the Hon. Minister to say what exactly the amendment is. Entry 52 in the State list gives powers to the present Legislature to pass laws as mentioned, namely, all goods which enter into a local area for use, consumption, and sale. What is meant by a local area had to be construed by the Supreme Court. Unfortunately, the Supreme Court was unable to be guided by any definition. There was no definition in the Constitution regarding the expression 'local area'. There is no definition of the local area in the General Clauses Act or anywhere. Nor is there any definition in the Sugar Act. So they went into the history of the Legislative enactment. They referred to the Government of India Act, and they referred to the provisions about octroi and other Acts. They finally came to the conclusion and that was a unanimous one, though there was one dissenting minute on other aspects—that they are of the opinion that the proper meaning to be attached to the words 'local area' in entry 52 of the Constitution is that the area should be a part of the State imposing the law, it must be an area administered by a local body like a municipality, the district board, or the local board, a panchayat union board, a panchayat or the like. So that is the definition that they have given. So when we merely say here again 'local area', it cannot be easily translated into Tamil. A Tamil notification is also necessary. Local area is an area which cannot be construed. Unfortunately in that particular Uttar Pradesh Act, premises of a factory were construed to be the local area by those people who published the

4-40 p.m. notification. Local area cannot be interpreted in that way. Therefore it is that a notification was issued there. 'Local area' is a small area and that is what they thought. The premises of a

27th April 1962] [Sri K. Balasubramanya Ayyar]

factory will be a local area. That is what they thought. But, unfortunately, on account of the fact that the term ' local area ' was used in the State List with a certain connotation, the Supreme Court went into the whole question and finally they gave a definition. There is no legislative definition. They said, ' The proper meaning to be attached to the words " local area " in entry 52 of the Constitution is an area administered by a local body, a municipality or a district board, a local board, a Union or Panchayat '. Now, what is the significance of this change? A sugar factory may get sugarcane not only from the panchayat but also from outside. Suppose there is a panchayat and there is a sugar factory existing in the panchayat. It can get sugarcane from any place within the panchayat. It can also get sugarcane from outside the panchayat. Therefore, necessarily, when you impose a cess, sugarcane which comes from beyond the borders of the panchayat can be taxed, and sugarcane which comes from within the panchayat cannot be taxed, because there is no lesser unit than a panchayat or a local area. I suppose I have made it clear. The premises of a sugar factory cannot be considered to be a local area. So, the use of the term ' local area ' will mean, so far as our taxing enactment is concerned, that we cannot tax any sugarcane which is produced within the panchayat but you can tax only the sugarcane which is brought from beyond the panchayat area. This is to be fully borne in mind by those who publish these notifications. Therefore, what I am driving at is that as the term ' local area ' has not been defined in any Act, not even in the General Clauses Act, nor is it well-known as a legal phrase, and as the Supreme Court after going into the history of the thing have finally come to the conclusion that ' local area ' means an area administered by a local body or by a municipality or by a panchayat board, it is better, I would suggest, to define the term ' local area ' in this particular Act. ' Local area ' may be defined as any area administered by any municipality within the State or any local board or union board or panchayat. That would make matters very clear. Otherwise, they may, by mistake, tax any sugarcane that is coming from within the panchayat area. Therefore, I request the Government to amend the Act itself by adding a definition clause. There is, no doubt, a dissenting judgment of the Supreme Court on this particular aspect, whether the term ' local area ' can be read down in the interpretation. That is a different matter. We are not concerned with it now. This is the suggestion that I would make to the drafting section. Put in a definition so that whenever any notification takes place, they will remember this and they will say ' either a panchayat area or a municipal area '. Those people who had read the Supreme Court judgment with care would have said that there should be a clear definition in the Act once for all as there was no other clause where it had been made clear except in the Supreme Court judgment.

THE HON. SRI R. VENKATARAMAN : Sir, the Government are alive to the problem raised by the distinguished Member Sri Balasubramanya Ayyar, and it is the intention of the Government

to define 'local area' in the same terms as suggested by the Supreme Court. I wish to add that this is an old Act of 1919 and Government are contemplating revising the Act. When such a revision takes place, this as well as other more necessary amendments could be brought forward.

MR. CHAIRMAN : The question is—

"That the Madras Sugar Factories Control (Amendment) Bill, 1962 (L.A. Bill No. 1 of 1962), as passed by the Assembly, be taken into consideration."

The motion was put and carried and the Bill was taken into consideration.

Clauses 2 and 3 were put and carried.

Clause 1 and the Preamble were put and carried.

THE HON. SRI P. KAKKAN : Sir, I move—

"That the Madras Sugar Factories Control (Amendment) Bill, 1962 (L.A. Bill No. 1 of 1962), as passed by the Assembly, be passed."

MR. CHAIRMAN : The question is—

"That the Madras Sugar Factories Control (Amendment) Bill, 1962 (L.A. Bill No. 1 of 1962), as passed by the Assembly, be passed."

The motion was put and carried and the Bill was passed.

VII.—ELECTION OF DEPUTY CHAIRMAN.

MR. CHAIRMAN : The next item in the List of Business is the election of the Deputy Chairman.

Under sub-rule (4) of rule 13 of the Council Rules, I have first to read out to the House the names of persons who have been duly nominated, together with the names of their proposers and seconders. They are :

	Member nominated. (1)	*Proposer.* (2)	*Seconder.* (3)
1	Sri V. K. Palaniswamy Gounder.	Sri R. Venkataraman ..	Sri K. Rajaram.
2	Sri V. K. Palaniswamy Gounder.	Sri K. Rajaram ..	Sri SP. K. A. Lakshmanan Chettiar.
3	Sri V. K. Palaniswamy Gounder.	Sri M. Seshachariar ..	Sri A. Chidambara Mudaliar.
4	Sri V. K. Palaniswamy Gounder.	Sri S. K. Sambandhan.	Sri K. V. Ramaswamy.

As only one Member, Sri V. K. Palaniswamy Gounder has been duly nominated for election, I declare him unanimously elected as Deputy Chairman.

VIII.—FELICITATIONS TO THE DEPUTY CHAIRMAN ON HIS ELECTION.

* THE HON. SRI R. VENKATARAMAN : Mr. Chairman, I rise to offer, on behalf of the Goernment, our hearty felicitations to Sri V. K. Palaniswamy Gounder on his unanimous election, which is the tradition in this House, to the high office of the